

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DOCKET NUMBER: 2201CR002384
BMC TRIAL COURT 5
COMMONWEALTH vs. Nicholas J. Fiorillo

NOTICE OF REMOVAL OF ACTION UNDER TITLE 42, UNITED STATES CODE § 1983

TO THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE THAT pursuant to Title 42, United States Code § 1983, Defendant Nicholas Fiorillo (“Defendant” or “Fiorillo”) hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Suffolk County Superior Court to the United States District Court for the District of Massachusetts. The Defendant further states the as follows:

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U.S. DISTRICT COURT
DISTRICT OF MASS.

Jurisdiction and Authority For Removal

1. On or about August 1, 2022, a criminal action was commenced against Defendant in the Boston Municipal Court in the Commonwealth of Massachusetts, (the “Municipal Court Action”).
2. Appended hereto as **Exhibit A**, are the Case Details available from docketed records, as the pleadings themselves including the initial complaint are “locked” and prevented from downloading, even by Defendant, as direct party to the action.
3. The District of Massachusetts, encompasses Suffolk County.
4. The Court has jurisdiction over this matter under U.S. Const. Ann. Article III, Section 2, Clause 1, and Title 42, United States Code § 1983, civil rights removal statutes which permit removal of any civil or criminal action by a defendant, who is denied or cannot enforce in the state court a right under any law, providing for equal civil rights of persons or who is being proceeded against for any act under color of authority derived from any law providing for equal rights.

5. Title 42, United States Code § 1983 provides that if an individual has been deprived of a right guaranteed to him by the Constitution or laws of the United States under color of state law, such an individual has a right to seek appropriate relief in a United States district court. Because Defendant has stated a federal due process or equal protection cause of action, the § 1983 cause of action stands. In deciding whether to exercise supplemental jurisdiction, the court should consider the factors of judicial economy, convenience, fairness and comity, upon such court being made aware of fairness concerns, if these claims based entirely upon knowingly false allegations and wrongful accusations, are heard in Boston Municipal Court.

6. Nicholas Fiorillo, as cross-complainant, enumerates at least 24 causes of action as basis for removal, including but not limited to: (1) Violations of Fifth Amendment Due Process Through Threats and Coercion, (2) Fourteenth Amendment Violation - Loss of Privilege, (3) Civil Rights Violations under 42 U.S.C. § 1983 - Discrimination, (4) Civil Rights Violations under 42 U.S.C. § 1983 and the Fifth and Fourteenth Amendments - Threat to Loss of Liberty, (5) Fifth Amendment Violation - Loss of Property/Fear of Transfer, (6) Civil Rights Violation under 42 U.S.C. § 1985 - Conspiracy to Deprive, (7) First Amendment Violation - Freedom of Expression and (8) Malicious Prosecution under §1983 (9) Violations of 18 U.S.C. §§ 891 to 896 - Loan Sharking, (10) Violations of 18 U.S.C. §873 - Extortion (11) Violations of 18 U.S.C. §1956 - Laundering of Monetary Instruments, (12) Violations of 18 U.S.C. §1962 - Collection of Unlawful Debts and RICO Conspiracy, (13) Violations Of The Federal Computer Fraud And Abuse Act 18 U.S.C. § 1030 (a-dd) (1-10), (14) Violations of the Federal Wiretap Act, 18 U.S.C. §2511(2)(d), (15) Violations of 18 USC Ch. 96 - RICO Racketeering, (16) Violations of the Privacy Act of 1974 (17) Violations of 18 USC 1801 - Patriot ACT, (18) Violations of the 1933 Act, (19) Violations of 124 Stat. 1376 - Dodd-Frank Wall Street Reform and Consumer Protection Act, (20) Violations of the American Anti-Corruption Act - AACA, (21) Violations of the Electronic Communications Privacy Act of 1986 (ECPA), (22) Violations of 18 U.S.C. §§ 241, 242, (23) Violations of 34 U.S.C. § 12601), and (24) Violations of 28 U.S. Code § 455.

Because Plaintiff specifically cites the First, Fifth, and Fourteenth Amendments to the U.S. Constitution, numerous federal statutes, including 42 U.S.C. § 1983 and 42 U.S.C. § 1985, et als as the basis of several of his claims, there is no question that the Federal Court has jurisdiction, and removal is proper.

7. Nicholas Fiorillo, therefore, properly asserts grounds for removal based upon the knowingly false allegations forming the basis of the subject Complaint, and that subsequent to the alleged incident while under oath, the accuser retracted his allegations by admission that Mr. Fiorillo did not assault him. As this matter has yet to be dismissed, Fiorillo may thus remove this action to this Court, under Title 42, United States Code § 1983 and U.S. Const. Ann. Article III, Section 2, Clause 1.

Notice to Boston Municipal Court of Removal of Civil Action

8. Defendant Nicholas Fiorillo will promptly have filed a copy of this Notice of Removal with the Clerk of the Boston Municipal Court, pursuant to Rule 11, as this removal is not time barred by and is in compliance with, 28 U.S. Code § 1455.

Dated: December 22, 2022

NICHOLAS FIORILLO
/s/ Nicholas Fiorillo
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